

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 16-20057

ABRAHAM BAYDOUN,

Defendant.

**OPINION AND ORDER DENYING DEFENDANT'S
MOTION TO ALTER OR AMEND**

On July 27, 2020, the court denied Defendant Abraham Baydoun's "Motion for Compassionate Release." (ECF No. 36.) In that order, the court held that Defendant's circumstances were not "extraordinary and compelling" under 18 U.S.C. § 3582(c)(1)(A). (ECF No. 36, PageID.336.) The court explained that his conditions were "not so extraordinary that 'irreparable harm or injustice would result if the relief is not granted.'" (*Id.*, PageID.338 (quoting *United States v. Sapp*, Case No. 14-20520, 2020 WL 515935, at *3 (E.D. Mich. Jan. 31, 2020) (Leitman, J.)).)

Defendant presents a "Motion to Alter or Amend" the court's July 27 opinion. (ECF No. 37.) The government has filed a response. (ECF No. 41.)

The court construes Defendant's motion as a request for reconsideration of the July 27 opinion. To prevail on a motion for reconsideration, there must be a "palpable defect" that "misled" the court. E.D Mich. L.R. 7.1(h)(3). "A 'palpable defect' is a defect which is obvious, clear, unmistakable, manifest, or plain." *Hawkins v. Genesys Health Sys.*, 704 F. Supp. 2d 688, 709 (E.D. Mich. 2010) (Borman, J.). "[C]orrecting the defect"

must also “result in a different disposition of the case.” E.D Mich. L.R. 7.1(h)(3).

“Generally . . . the Court will not grant motions for . . . reconsideration that merely present the same issue ruled upon by the Court, either expressly or by reasonable implication.” *Id.*

As the court explained in its order, (ECF No. 36, PageID.336), a defendant seeking compassionate release must present “extraordinary and compelling” circumstances, must have § 3553(a)’s sentencing factors weigh in his favor, must not be a threat to others as determined by § 3142(g), and must fit within one of the four categories in § 1B1.13 of the Sentencing Guidelines. 18 U.S.C. § 3582(c)(1)(A); U.S. Sentencing Guidelines Manual § 1B1.13; *see also United States v. Kincaid*, 802 F. App’x 187, 188 (6th Cir. 2020). The court explained that Defendant had already contracted Covid-19 as early as May 28, 2020. (ECF No. 36, PageID.336.) He had been asymptomatic and his records indicated he had not sought out nor received treatment since testing positive. (*Id.*, PageID.337.) Additionally, the court noted it was not aware of any confirmed cases of an individual being re-infected with COVID-19 from a different source after fully recovering. (*Id.*) FCI Elkton offers medical treatment if symptoms develop in the future, and if released, the court has no assurances as to the quality of healthcare Defendant would receive. (*Id.*, PageID.337-38.)

In his motion for reconsideration, Defendant fails to show that the court was misled and has simply presented the same issue previously ruled upon by the court. E.D Mich. L.R. 7.1(h)(3). Specifically, he presents no new evidence as to his medical condition and whether he has successfully recovered from COVID-19. The court is not persuaded that alteration or amendment of its original order is necessary. Accordingly,

IT IS ORDERED that Defendant's "Motion to Alter or Amend Opinion and Order"
(ECF No. 37) is DENIED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 6, 2020

I hereby certify that a copy of the foregoing document was mailed to counsel of record
on this date, October 6, 2020, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(810) 292-6522

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